IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.1417 of 2007
Date of Decision: 3.10.2007

Ram Pyari .....Petitioner

Vs.

State of Haryana and others ...Respondents

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CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE RAJIVE BHALLA

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Present : Mr.Vivek Khatri, Advocate for the petitioner.
Mr.Ashish Kapoor, Addl.A.G. Haryana.

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RAJIVE BHALLA, J

The petitioner, who is the mother of Ishwar, prays for the issuance of a writ, order or direction, directing the State of Haryana to grant compensation of Rs.10.00 lacs, on the plea that Ishwar died in District Jail, Bhiwani on account of negligence of the jail authorities.

Ishwar deceased was arrested on 23.6.2006 and confined in Central Jail, Hisar with effect from 8.7.2006. The petitioner alleges that Ishwar was depressed due to pressure by some criminals inside the jail. He also complained that these prisoners demanded money and on his failure to provide money, usually beat him. It is further alleged that Ishwar deceased informed his brother Rajesh that an ASI, posted in jail demanded a sum of Rs.10,000/- but as Ishwar failed to pay money, the ASI harassed him. Thereafter, Rajesh is alleged to have given a sum of Rs.10,000/- to the ASI in two instalments of Rs.5,000/- each. However, the behaviour of the jail staff and the criminals did not change. On 23.10.2006, Rajesh, filed an application before the Sessions Judge, Hisar, for shifting his brother to

another jail, on the plea that when he met Ishwar, the latter began weeping and informed him that some criminals had beaten him in jail but he refused to disclose their names. The application was allowed and on 28.10.2006, Ishwar was shifted from Central Jail, Hisar to District Jail, Bhiwani. It is further averred in the petition that while being transported from Hisar to Bhiwani, Ishwar was harassed and beaten by the jail staff to such an extent that on 28.10.2006, after his arrival in Bhiwani jail, he committed suicide by hanging..

Counsel for the petitioner contends that the conduct of the jail staff and their failure to prevent the criminals from beating Ishwar led to his committing suicide. It is further submitted that Ishwar is alleged to have committed suicide by hanging with a scroll (`Parna' – a piece of cloth). Para 606 of the Punjab Jail Manual prohibits the possession of any article, capable of being converted into string, rope or chain and thus, the jail authorities were negligent in their conduct.

In response to the aforementioned assertions, the Superintendent, District Jail, Bhiwani, has filed a reply, denying the allegations levelled. It is specifically asserted that Ishwar was admitted to District Jail, Bhiwani on 28.10.2006 at 1.30 PM. He took tea at about 3.15 PM with the other inmates and after some time went to take a bath alongwith the other prisoners of Mulahza ward. Ishwar committed suicide at 3.45 PM and was found hanging from a Shisham tree. The inquest report prepared by the Sub Divisional Magistrate, Bhiwani and the postmortem report reveals that there was no mark of violence or ill treatment on the deceased's body. According to the inquest report, the deceased was mentally depressed due to the untimely death of a son of his paternal sister,

with whom the deceased had intimate relations. A departmental enquiry was conducted by the Chief Probation Officer, office of the Director General of Prisons Haryana, Panchkula, but no lapse or negligence was found on the part of the jail official.

Counsel for the petitioner contends that jail authorities were negligent in permitting Ishwar to retain a cotton cloth, in violation of Para 606 of the Punjab Jail Manual. Even otherwise, the deceased was harassed, maltreated and beaten, to such an extent that he was forced to commit suicide. It is, therefore, prayed that compensation be assessed and granted to the petitioner.

On the other hand, counsel for the State of Haryana, has specifically denied the allegations of harassment, maltreatment and beating by referring to the inquest report, submitted by the Sub Divisional Magistrate, Bhiwani dated 2.11.2006 and the postmortem report as also the enquiry. It is asserted that the allegations are baseless and Ishwar committed suicide, as he was depressed. It is submitted that as no negligence or foul play can be attributed to the respondents, the present petition be dismissed.

We have heard learned counsel for the parties and perused the paper book.

We express our inability to accept the prayer made by counsel for the petitioner. As Ishwar admittedly committed suicide, which fact is fortified by the postmortem report as well as the inquest report, the question whether there any harassment preceded the suicide or any negligence on the part of the jail authorities or other persons, is a disputed question of fact, which we are not inclined to adjudicate in writ jurisdiction.

Without expressing any final opinion, as to the merits of the petitioner's claim, the present petition is disposed of, with liberty to the petitioner to seek such other remedy, as may be available to her, in accordance with law.

(RAJIVE BHALLA)
JUDGE

3.10.2007 (UMA NATH SINGH)
GS JUDGE